

PREVAILING WAGE ADVISORY

September 14, 2009

Governor Quinn Signs Bills to Clarify and Enhance Compliance with the Prevailing Wage Act

Three separate prevailing wage bills aimed at clarifying what work is covered and how contractors are to be notified that projects are subject to prevailing wage requirements were passed by the General Assembly and signed into law by Governor Pat Quinn this summer. These changes become effective **January 1, 2010** and the Illinois Department of Labor is actively communicating these changes to affected parties in order to promote greater understanding and compliance with the revised law.

On July 23, Gov. Quinn signed **Senate Bill 223 (Public Act 96-0058)** to clarify that “public works” includes all projects funded in whole or in part through ***bonds, grants, loans or other funds made available by or through the State or any of its political subdivisions***. Prior to the passage of SB 223, some doubt existed within the regulated community as to whether projects financed through public funding mechanisms not specifically enumerated in the Act were “covered” work. This ambiguity resulted in millions of dollars in back wages, penalties and legal costs being incurred by contractors, developers and public bodies. Public Act 96-0058 removes any doubt over whether such work is covered by explicitly stating that a construction project is covered by the Prevailing Wage Act if it is financed in whole or in part with bonds, grants loans or other funds made available through the State or any of its political subdivisions. These political subdivisions include traditional public bodies such as municipalities, counties and state agencies, as well as non-traditional public bodies, such as the Illinois Finance Authority, the Illinois Housing Development Authority and regional economic development authorities.

The Department of Labor believes this clarification was needed to ensure workers receive a fair wage and to help contractors and developers avoid penalties due to an inadvertent failure to comply with the law. The Department wants to make sure all interested parties – public bodies, developers and contractors – understand their obligations and comply with the requirements of the Prevailing Wage Act. To this end, the Department is currently conducting outreach to advise public bodies, business organizations, developers and contractors of recent changes to the Act and their responsibilities under the law, including better notification by public bodies and first-tier contractors that projects are subject to prevailing wage at the outset of the project, before any work is performed.

Another prevailing wage bill signed by Gov. Quinn, **House Bill 952 (Public Act 96-0186)**, amends the law to explicitly cover all demolition work undertaken by a public body, regardless of whether or not the demolition work is in conjunction with a public works construction project. Prior to this change, there

was some disagreement as to whether such demolition work was covered if it was not related to a public works construction project.

The final prevailing wage bill, **House Bill 163 (Public Act 96-0437)**, holds public bodies financially responsible for any interest, penalties or fines assessed by the Department if they fail to provide proper written notification to a contractor that a project is subject to the Prevailing Wage Act. Similarly, contractors that fail to notify their subcontractors that a project is subject to prevailing wage requirements will be held responsible for any interest, penalties or fines assessed by the Department. However, regardless of whether or not they were properly notified, contractors that fail to pay the proper wages to their workers are still responsible for all back wages owed to those workers.

Any questions regarding this or other prevailing wage issues or requests for outreach should be directed to the Illinois Department of Labor at (217) 782-1710. For more information, please visit our website at: www.state.il.us/agency/idol/.